

Message Text

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ACTION IO-11

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INFO AMEMBASSY LONDON

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E.O. 11652: GDS

TAGS: PFOR, UN, UK, FR, UR

SUBJECT: THE VETO IN THE SECURITY COUNCIL

REF: USUN 506

1. US, UK, FRENCH MISOFF MET AT REQUEST SCALABRE (FRANCE) TO HAVE PRELIMINARY CONSIDERATION IMPLICATIONS OF ARTICLE 27(3) ISSUE CONCERNING POSSIBLE LOSS OF RIGHT TO VOTE BY STATE PARTY TO A DISPUTE IN THE SC. DISCUSSION FOCUSED ON HOW TO AVOID AN SC DECISION BARRING A MEMBER FROM CASTING A VOTE ON A DRAFT RESOLUTION AND HOW BEST TO COPE WITH A SITUATION IN WHICH THE COUNCIL DID SO DECIDE.

2. THE EXCHANGE COVERED A VARIETY OF SITUATIONS. THE FIRST SITUATION IS WHERE THERE IS A HELPFUL PRESIDENT. WE AGREED THAT A HELPFUL PRESIDENT SHOULD FOLLOW APPROXIMATELY THIS GENERAL SCENARIO: (I) IF THE RIGHT OF A MEMBER TO VOTE IS CHALLENGED, PUT TO THE COUNCIL THE QUESTION WHETHER SUCH A MEMBER BE BARRED FROM VOTING BY THE CHARTER; (II) IF 9 MEMBERS VOTE YES BUT ONE OR MORE PERMANENT MEMBERS VOTE NO, DECLARE THAT THE MEMBER IN QUESTION MAY VOTE; (III) IF THIS IS CHALLENGED, THE PRESIDENT SHOULD PUT TO THE COUNCIL THE QUESTION WHETHER THE DECISION

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JUST VOTED UPON WAS MATTER OF PROCEDURE; (IV) IF 9 MEMBERS

VOTE YES BUT ONE OR MORE PERMANENT MEMBERS VOTE NO, DECLARE THAT THE MATTER IS CONSEQUENTLY ONE OF SUBSTANCE AND AS PREVIOUSLY INDICATED HAS BEEN DEFEATED BY THE NEGATIVE VOTE OF A PERMANENT MEMBER; (V) IF THIS STATEMENT IS CHALLENGED, THE PRESIDENT SHOULD PUT THE CHALLENGE TO THE VOTE THUS REQUIRING THOSE WHO REGARD IT AS A MATTER OF PROCEDURE AND ARE CHALLENGING THE PRESIDENT TO GET 9 VOTES TO OVERRULE HIM; (VI) IF THERE ARE 9 VOTES IN FAVOR OF THE CHALLENGE, THE SCENARIO COLLAPSES AND THE MEMBER IS DEPRIVED OF THE VOTE. THE CONSENSUS OF THE US, UK, FRENCH MISOFF WAS THAT IT WOULD BE EXTREMELY UNLIKELY THAT 9 VOTES COULD BE HELD BY THOSE SEEKING TO DEPRIVE A MEMBER OF THE VOTE THROUGHOUT THIS SORT OF PROLONGED BATTLE IN THE FACE OF A HELPFUL PRESIDENT PULLING THE RIGHT LEVERS.

3. WITH AN UNHELPFUL PRESIDENT, TRY TO INSIST THAT HE PUT TO THE VOTE IN THE COUNCIL THE QUESTIONS AS TO WHETHER ARTICLE 27(3) APPLIES AND WHETHER A NEGATIVE VOTE BY A PERMANENT MEMBER ON THIS QUESTION CONSTITUTES A VETO. (THIS IS CLEARLY PREFERABLE TO A HOSTILE RULING ON EITHER POINT). IF THIS EFFORT FAILS AND THE PRESIDENT RULES AND DOES SO IN A UNHELPFUL MANNER, EITHER OBJECT TO HIS RULING AND TRY TO GET HIM TO PUT HIS RULING TO THE VOTE (THIS REQUIRING 9 VOTES TO SUSTAIN THE RULING) AND/OR OBJECT TO THE RULING AND RECORD THE VIEW THAT THE RULING WAS ILLEGAL AND ANY AND ALL COUNCIL ACTION ON THE PARTICULAR QUESTION BEFORE AND COUNCIL IS ILLEGAL AND CONSEQUENTLY WITHOUT EVEN RECOMMENDATORY EFFECT. THIS COULD BE COUPLED WITH A REFUSAL TO PARTICIPATE IN ANY FURTHER VOTING ON THE MATTER OR AN ATTEMPT BY THE MEMBER DEPRIVED OF THE VOTE TO VOTE WHEN THE RESOLUTION IS VOTED UPON

4. STEEL (UK) SAID HIS MISSION HAD ALSO BEEN CONSIDERING THE POSSIBILITY OF A US, UK, FRENCH, SOVIET AGREEMENT THAT, SHOULD ANY ONE OF THE FOUR OF US (OR PERHAPS ANY MEMBER WHETHER PERMANENT OR ELECTED) BE BARRED FROM VOTING, THE OTHER THREE (OR FOUR) WOULD CAST NEGATIVE VOTES IRRESPECTIVE OF THE SUBSTANCE OF THE RESOLUTION AND CITE THE IMPROPER EXCLUSION OF A MEMBER AS THE SOLE GROUNDS FOR THE NEGATIVE VOTE. MISOFF EXPRESSED THE PERSONAL VIEW THAT WHATEVER MIGHT BE MERITS OF SUCH AN AGREEMENT BETWEEN THE US, UK, AND FRANCE, IT WAS IN HIS VIEW UNTHINKABLE SO FAR AS

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THE USSR WAS CONCERNED. MISOFF QUERIED WHETHER; (A) ANY OF OUR GOVERNMENTS WOULD VETO A CHAPTER VI RESOLUTION IF ONE WERE BEFORE THE COUNCIL ON A ROMANIAN OR YUGOSLAV REPEAT OF WHAT THE SOVIETS DID IN CZECHOSLOVAKIA IN 1968; (B) WE COULD RELY ON THE SOVIETS TO DELIVER WHEN THE CHIPS WERE DOWN. STEEL AND SCALABRE TOOK THE POINT AND SUGGESTED FURTHER EXAMINATION OF THE POSSIBILITY THAT A US, UK, FRENCH AGREEMENT MIGHT BE THE MORE APPROPRIATE SUBJECT OF FURTHER CONSIDERATION. SCALABRE, WHO WAS

MUCH TAKEN WITH THE IDEA, VOLUNTERED THAT FRANCE WOULD HAVE NO PROBLEM VETOING A PANAMA CANAL RESOLUTION IF SUCH AN AGREEMENT EXISTED.

5. WE AGREED TO REPORT THE ABOVE DISCUSSION AND TO KEEP IN TOUCH.

6. COMMENT: IT MAY BE THAT THE ISSUE WILL FADE AWAY AND THE 25 YEAR OLD COUNCIL PRACITSE OF NOT APPLYING ARTICLE 27(3) WILL CONTINUE. HOWEVER, WE CANNOT RELY ON THIS IN VIEW OF THE POSSIBILITY THE COUNCIL WILL BE ASKED TO TAKE ACTION THIS YEAR ON SUCH MATTERS AS (A) THE ICELAND- UK FISHING DISPUTE, (B) SOME ASPECT OF THE UK-ARGENTINE DISPUTE OVER THE FALKLANDS, (C) FRENCH ACTIONS CONCERNING FORMALLY MAKING MAYOTTE A DEPARTMENT OR TERRITORY OF FRANCE, (D) THE PANAMA CANAL, OR (E) RHODESIA. WE RECOGNIZE THAT EVEN IF THE ARTICLE IS APPLIED WE COULD BE DEPRIVED OF THE VETO ONLY IN CHAPTER VI SITUATIONS AND THUS, TO OVERGENERALIZE, ONLY IN SITUATIONS INVOLVING COUNCIL RECOMMENDATIONS, NOT DECISIONS OF A BINDING CHARACTER. NEVERTHELESS, THE MATTER SHOULD NOT BE TAKEN LIGHTLY.

7. WE RECOMMEND SERIOUS CONSIDERATION BE GIVEN TO THE PROBLEM AND ALTERNATIVE MEANS OF DEALING WITH IT, INCLUDING THE POSSIBILITY OF SOME FORM OF US, UK, FRENCH AGREEMENT TO VETO IF A MEMBER IS EXCLUDED FROM VOTING, ESPECIALLY IF ONE OF US IS EXCLUDED. WHILE THE PROBLEM IS NOT LIKELY TO ARISE THIS MONTH WITH THE US IN THE PRESIDENT'S CHAIR, ONE CANNOT PREDICT WHAT MIGHT COME UP NEXT MONTH WHEN BENIN WILL ASSUME THE PRESIDENCY.
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